

### **REMARKS**

Favorable reconsideration and allowance of the present application is respectfully requested.

Currently, claims 58-75, including independent claims 58 and 70, remain pending in the present application. Independent claim 58, for example, is directed to a composite fabric comprising a nonwoven web that contains microfolds imparted by creping. The nonwoven web is formed from continuous splittable multicomponent thermoplastic fibers having individual segments exposed on an outer perimeter thereof. Various segments of these fibers may thus separate from the web during entanglement, thereby improving the bulk, softness, and capillary tension of the resulting fabric. (Appl. p. 9). The cellulosic fibers (e.g., pulp fibers) are driven into the web containing microfolds through hydraulic entanglement.

In the Office Action, previous independent claims 39 and 51 were rejected under 35 U.S.C. §102(b) as being anticipated by WO 99/20821 to Anderson, et al. Anderson, et al. is directed to a method for creping a composite fabric that has been hydraulically entangled. Notably, however, claims 58 and 70 require that hydraulic entanglement of the nonwoven web with a fibrous material occurs *after* the nonwoven web has been “creped.” That is, the nonwoven web is creped *before* hydraulic entanglement. Anderson, et al. simply does not disclose a composite fabric in which the nonwoven web is “creped” *before* hydraulic entanglement.

Nevertheless, the Office Action asserted that the composite fabric of Anderson, et al. would still have the *same* structure as claimed. As an initial matter, Applicants note that independent claims 58 and 70 require that the nonwoven web have

microfolds, which are imparted by creping prior to hydraulic entanglement. Such a structure is clearly not disclosed in Anderson, et al. In any event, no rationale is provided in the Office Action to support the conclusion that the composite fabric of Anderson, et al. would have the *same* structure as claimed. To the contrary, creping the nonwoven web before hydraulic entanglement can open the pore structure of the nonwoven web. This open structure may facilitate hydraulic entangling, as well as provide increased permeability, stretchability in the machine and/or cross-machine directions, softness, and bulk. Creping the nonwoven web *before* it is entangled with a fibrous component may also impart excellent liquid handling properties to the resulting entangled fabric. Thus, for at least the reasons set forth above, Applicants respectfully submit that independent claims 58 and 70 patentably define over Anderson, et al.

In the Office Action, previous independent claims 39 and 51 were also rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 4,808,467 to Suskind, et al. in view of U.S. Patent No. 6,797,226 to Annable and U.S. Patent No. 6,103,061 to Anderson, et al. Suskind, et al. is directed to a high strength nonwoven absorbent fabric formed from a web of continuous filament fibers. The continuous filament fibers are intimately entangled with wood pulp fibers mixed with staple length fibers. (Col. 1, ll. 48-53). However, as correctly noted by the Examiner, Suskind, et al. fails to disclose various limitations of the present claims, including the use of a nonwoven web that is “creped” and also formed from “continuous splittable multicomponent thermoplastic fibers having individual segments exposed on an outer perimeter thereof.”

Nevertheless, Annable and Anderson, et al. were both cited in conjunction with Suskind, et al. in an attempt to render obvious independent claims 58 and 70. For

example, Annable was cited as teaching a microcreped, nonwoven web that may be formed from conjugate fibers. However, Annable is not available as prior art to the present application under 35 U.S.C. §103(a). Under the provisions of 35 U.S.C. §103(c), a patent that qualifies as prior art only under §102(e), (f), or (g) is not available as prior art if the patent and the claimed invention were, at the time the invention was made, subject to an obligation of assignment to the same person.<sup>1</sup> In the instant case, Annable and the present application were both subject to assignment to Kimberly-Clark Worldwide, Inc. at the time the invention was made. The files of the present application refer to an assignment recorded in the PTO at Reel and Frame Nos. 012727/0740 to Kimberly-Clark Worldwide, Inc. Likewise, Annable was also formally assigned to Kimberly-Clark Worldwide, Inc. Accordingly, Applicants respectfully submit that Annable is no longer available as prior art to the present application.

Regardless, Suskind, et al. provides no motivation whatsoever for one of ordinary skill in the art to crepe the nonwoven web prior to entanglement. In fact, Suskind, et al. completely fails to recognize the benefits achieved by using a creped nonwoven web in accordance with the present claims. For instance, creping the nonwoven web may, among other things, open the pore structure to increase permeability, enhance stretchability in the machine and/or cross-machine directions, and increase softness and bulk. (See e.g., Appl. p. 12).

As noted above, Anderson, et al. was also cited in the Office Action in combination with the above references. Specifically, it was stated that Anderson, et al.

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<sup>1</sup> Annable is not available as prior art under §102(a) as it published on September 26, 2002, while the present application was filed on December 20, 2001. Thus, it is presumed that the Office Action attempts to use Annable as a §102(e) reference in the §103 rejection.

teaches the use of splittable fibers, and that it would have been obvious to incorporate such fibers into the fabric of Suskind, et al. However, notwithstanding any teaching relating to the use of splittable fibers, Anderson, et al. fails to cure any of the defects discussed above with respect to Suskind, et al. and Annable. Thus, for at least the reasons set forth above, Applicants respectfully submit that independent claims 58 and 70 patentably define over the cited references.

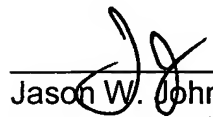
Finally, previous claims 39, 44-45, 49-51, and 55-56 were provisionally rejected under the judicially created doctrine of obvious-type double patenting in view of copending Application No. 10/328,846. Claims 39-40, 44, 49-51, and 55-56 were also provisionally rejected under the judicially created doctrine of obvious-type double patenting in view of copending Application No. 10/328,751. Further, claims 39, 44, 49-50, and 55-56 were provisionally rejected under the judicially created doctrine of obvious-type double patenting in view of copending Application No. 10/328,450 in view of U.S. Patent No. 6,103,061 to Anderson, et al. Claims 39, 40-42, and 51 were provisionally rejected under the judicially created doctrine of obvious-type double patenting in view of copending Application No. 10/744,606. Without commenting on the propriety of these rejections, Applicants agree to submit terminal disclaimers for the referenced applications to the extent necessary at such time that the present application is otherwise found to be allowable.

It is believed that the present application is in complete condition for allowance and favorable action is respectfully requested. Examiner Torres-Velazquez is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Amendment.

Please charge any fees required by this Amendment to Deposit Account No. 04-1403.

Respectfully submitted,

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